

REMARKS

This is a full and timely response to the outstanding final Office Action mailed July 13, 2006. Reconsideration and allowance of the application and pending claims are respectfully requested.

Claim Rejections - 35 U.S.C. § 103(a)

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *See In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). The Manual of Patent Examining Procedure (MPEP) section 2143 discusses the requirements of a *prima facie* case for obviousness. That section provides as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.

In the present case, the prior art does not teach or suggest all of the claim limitations, and there is no suggestion or motivation in the prior art to modify the references to include those limitations.

A. Rejection of Claims 1-3, 5-12, 17, 18, and 20

Claims 1-3, 5-12, 17, 18, and 20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ghannam, et al.* (“Ghannam,” U.S. Pat. No. 6,651,062) in view of *Barrett, et al.* (“Barrett,” U.S. Pat. No. 5,568,612) and further in view of *Schwartz, et al.* (“Schwartz,” U.S. Pat. No. 5,913,032). Applicant respectfully traverses this rejection.

1. The Ghannam Disclosure

Ghannam discloses a method and system for managing data for use by data applications. As described by Ghannam, the disclosed system includes a data management system 210 that receives information from one or more data sources, processes the information according to policies, and stores the information in a data warehouse. *Ghannam*, column 4, lines 37-40. The “data sources” that provide data to the data warehouse comprise “management servers, network entities or any other source of management data.” *Ghannam*, column 6, lines 29-30. The data warehouse can then be “accessed by applications that perform analysis with the data.” *Ghannam*, column 4, lines 40-42. Accordingly, the Ghannam system merely collects and stores data that users can access, at their own initiative, using an appropriate “application.” Example applications include SQL, ODBC, and COBRA. *Ghannam*, column 7, lines 42-44.

Ghannam further discloses a graphical user interface for configuring a “network link report.” *Ghannam*, column 27, lines 15-28. Notably, however, that interface is *not* used to

configure or schedule notifications or reports that are sent to subscribers. Instead, the report is manually accessed by users.

2. The Barrett Disclosure

Barrett discloses a method and apparatus for advertising. As is described by Barrett, the method and apparatus are used to advertise two network servers from a single network node in a LAN communication system that supports advertising only a single server from any one node. *See* Abstract.

In the detailed description of the reference, Barrett describes an “automatic logging function.” As stated by Barrett:

As described earlier with respect to FIG. 5A, Steps S9 through S12 comprise an automatic logging function in which peripheral statistics (e.g., number of pages printed per day) and error events are automatically logged (stored) for later retrieval; and wherein the logging level (statistical resolution) may be varied by the network administrator. In general, the network administrator may select a logging level, and then extract printer statistics and error events from the log file at any time.

Barrett, column 44, lines 18-26.

3. The Schwartz Disclosure

Schwartz discloses a system and method for automatically distributing a shared object data through electronic mail. As is described by Schwartz, the system can be used to publish documents, such as sales reports, on a periodic basis. *See Schwartz*, column 11, lines 1-28.

4. Discussion of the Rejections

(a) Issues Regarding the Ghannam Reference

In the Office Action, the Examiner argues that Ghannam teaches each of:

- *notifying designated subscribers* about logged events according to criteria *indicated by subscriber profiles*;
- *selectively generating subscription reports* according to criteria *indicated by the subscriber profiles*; and
- *sending subscription reports* to designated subscribers according to criteria *indicated by the subscriber profiles*.

Applicant disagrees, as is discussed in the following.

(1) “Notifying Designated Subscribers. . .”

As a first matter, Ghannam does not teach “notifying designated subscribers” about logged events according to criteria “indicated by subscriber profiles” as argued by the Examiner. In support of his argument, the Examiner cites column 27, lines 15-27 of the Ghannam disclosure, which provides:

FIG. 14 is a representation of a graphical user interface for configuring a network link report. As discussed above, *information stored from various data sources may be accessed by an application 202*. For example, information may be collected from multiple network domains by multiple network management systems. This information may be consolidated or combined in data warehouse

203. Interface 1401 accepts parameters from a user to present to the user utilization statistics based on links in the network. In particular, system 203 may show a graph 1402 to an administrator to show the percent utilization for links of systems based on a specified time period. Also, the graph 1402 may be based on the number of bytes, packets, or other parameter used to show capacity of a communication link.

Ghannam, column 27, lines 15-27 (emphasis added).

Although the above excerpt from the Ghannam disclosure describes using “parameters from a user to present to the user utilization statistics,” Applicant notes that the excerpt does *not* concern Ghannam’s invention, i.e., the data management system 210 that collects data from the various data sources. Instead, the excerpt describes operation of a separate “application” 202 that a user can use to parse through the data that is collected by the data management system 210. In other words, Ghannam’s data management system 210 does not, as is suggested by the Examiner, *notify* designated *subscribers* according to criteria indicated by *subscriber profiles* the management system comprises or refers to.

Instead of using such subscriber profiles, Ghannam’s data management system 210 only collates the collected data according to “policies” that are established by a system administrator. As is described by Ghannam:

. . . data management system 210 receives information from one or more data sources, processes the information according to policies, and stores the information in a data warehouse. *The data warehouse can be accessed by applications that perform analysis with the data.*

Ghannam, column 4, lines 37-42 (emphasis added).

Accordingly, Ghannam's system does not "notify" "subscribers" based upon their individual "subscriber profiles". Instead, Ghannam's system merely collects certain information as specified by the administrator, and leaves it to the various users to manually execute an appropriate "application" to access the pieces of information about which the user is interested.

(2) "Generating Subscription Reports . . ."

Ghannam further does not teach selectively "generating subscription reports" according to criteria "indicated by the subscriber profiles", as argued by the Examiner. Although, as described above, Ghannam teaches generating a data warehouse that can be "accessed by applications," that certainly does not equate to generating a "subscription report". In particular, it is clear that Ghannam's data warehouse is in no way "subscription" based. Accordingly, Ghannam does not in fact teach generating any "subscription reports".

As a further point, Applicant notes that Ghannam teaches no "subscriber profiles". Specifically, as noted above, Ghannam does not contemplate any "subscription" based dissemination of information. Moreover, Ghannam does not contemplate the concept of a "profile". At best, Ghannam can be said to teach collecting "management data" according to parameters established by an administrator. *See Ghannam*, column 27, lines 15-27. No "profile", however, is even envisioned by Ghannam.

(3) "Sending Subscription Reports. . ."

Ghannam also does not, as argued by the Examiner, teach "sending subscription reports" to designated subscribers according to criteria "indicated by the subscriber profiles". Again, Ghannam's data management system simply collects data that can be accessed by users with an

appropriate “application”. Hence, no report is “sent” by Ghannam’s system. Furthermore, as stated above, Ghannam does not contemplate a “subscriber” based system. It therefore follows that Ghannam does not send a “subscription” report to a “subscriber”.

As a further point, Ghannam does not teach sending the subscription report to the subscriber “according to criteria indicated by the subscriber profiles”. Once again, Ghannam does not contemplate the concepts of a “subscriber” or a subscriber “profile”.

(4) Conclusion as to the Ghannam Reference

In view of the above, Ghannam fails to teach multiple limitations of Applicant’s claims. Given that neither Barrett nor Schwartz provide the missing teachings, Applicant’s claims are allowable over the Ghannam/Barrett/Schwartz combination at least for the deficiencies described above.

(b) Issues Regarding the Barrett Reference

In the Office Action, the Examiner acknowledges various deficiencies of the Ghannam reference, but argues that Barrett remedies most of the those deficiencies. For example, the Examiner argues that Barrett teaches:

- automatically sending subscription reports to designated subscribers according to criteria indicated by the subscriber profiles.

Applicant again disagrees. As a first matter, Applicant notes that neither Ghannam nor Barrett comprises any suggestion or motivation for combination of their teachings or modification

of the Ghannam system to incorporate features of the Barrett system. Ghannam teaches a system for managing data such as “trap information, topology data, configuration information, network object data, performance data or any other data regarding computer systems management.” *Ghannam*, column 7, lines 18-21. Barrett, on the other hand, teaches a system *for advertising the services of two network servers* from a single network node. Therefore, it is questionable why a person having ordinary skill in the art would even consider consulting the Barrett reference in contemplating a modification of the Ghannam system. It is further questionable why a person having ordinary skill in the art would think to add Barrett’s teaching of logging of printer information to Ghannam’s system when Ghannam does not appear to be concerned with collecting any information about printers.

Given the apparent lack of a suggestion or motivation contained in the prior art, it appears clear that the only suggestion or motivation comes from Applicant’s own disclosure. As is well established in the law, such hindsight to the Applicant’s own disclosure is *per se* improper. *See Crown Operations International, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 62 USPQ2d 1917 (Fed. Cir. 2002) (a determination of obviousness cannot be based on a hindsight combination of components selectively culled from the prior art to fit the parameters of the invention). In this case, the Examiner clearly is “selectively culling” prior art references with the intention of rejecting Applicant’s claims and without regard to reasonableness of the proffered combination.

Aside from the lack of proper motivation to combine the references, Applicant notes that, contrary to that argued by the Examiner, Barrett does *not* teach automatically sending subscription reports to designated subscribers according to criteria indicated by subscriber profiles. Although Barrett contemplates an “automatic logging function,” Barrett is silent as to “sending” reports to anyone. Again, a network administrator may “extract” statistics from Barrett’s logged

information, but *nothing* is sent out by Barrett's system. Furthermore, Barrett, like Ghannam, does not contemplate a "subscription" based system. Accordingly, Barrett does not teach sending "subscription" reports to "subscribers". Moreover, Barrett, like Ghannam, does not contemplate the concept of a subscriber "profile". Barrett says *nothing* of a profile being created or being used to determine what information to collect or provide.

In view of the above, Barrett also fails to teach limitations of Applicant's claims. Therefore, Applicant's claims are also allowable over the Ghannam/Barrett/Schwartz combination for that reason.

(c) Issues Regarding the Schwartz Reference

In the Office Action, the Examiner acknowledges various deficiencies of the Ghannam and Barrett references, but argues that Schwartz provides a missing teaching. In particular, the Examiner states that Schwartz teaches:

- subscribers that automatically receive reports on a weekly basis.

Applicant agrees that Schwartz teaches distribution of weekly reports. Regardless, that teaching fails to remedy all of the deficiencies of the Ghannam and Barrett references described in the foregoing. For example, with specific regard to Applicant's claimed "automatically notifying designated subscribers about logged events according to criteria indicated by subscriber profiles" and "automatically sending periodic subscription reports to designated subscribers according to criteria indicated by the subscriber profiles", Applicant notes that Schwartz's mere teaching of sending weekly "sales reports" to "managers" does little to account for notifying

subscribers about “logged events” that pertain to “peripheral devices” according to subscriber “profiles”. Moreover, Schwartz says *nothing* about peripheral device events and is also silent as to the concept of a subscriber “profile”.

As a further matter, Applicant notes that the prior art does not provide any suggestion or motivation to combine the Schwartz teachings with either the Ghannam or Barrett teachings. Again, Schwartz teaches a system for sending reports about sales data. Given that neither Ghannam nor Barrett contemplate sending reports at all or sales data, a person having ordinary skill in the art would not think to modify either of the Ghannam or Barrett systems to provide weekly reports like Schwartz’s sales reports. Indeed, it appears that Ghannam specifically *teaches away* from such an arrangement given his apparent preference for accessing data using a “program” such as SQL. Again the only suggestion or motivation to combine and modify Ghannam’s teachings comes from hindsight reference to Applicant’s own disclosure. Such hindsight to the Applicant’s own disclosure is *per se* improper.

(d) Conclusion

In summary, it is Applicant’s position that:

- (i) Ghannam fails to teach limitations that the Examiner identifies Ghannam as teaching;
- (ii) Barrett fails to teach limitations that the Examiner identifies Ghannam as teaching; and
- (iii) there is no legitimate motivation for combining the references or modifying the systems disclosed in those references in the manner identified by the Examiner.

Therefore, it is requested that the rejection be withdrawn.

5. Replies to Examiner's Responses to Arguments

The Examiner first argues that one cannot show nonobviousness by attacking references individually. In reply, Applicant notes that Applicant has identified the shortcomings of the references to point out how the references fail to teach the various aspects that the Examiner describes them as disclosing. Applicant knows of no other way to explain why the rejection fails to address each of Applicant's express limitations. Furthermore, as stated above, Applicant has addressed the proffered combination and why that combination fails to render Applicant's claims obvious. Moreover, it appears that it is the Examiner who is addressing the various claimed inventions in a piecemeal manner as opposed to addressing each claimed invention as a whole.

Second, the Examiner argues that Ghannam discloses a user profile, and cites column 27, lines 15-27 of the Ghannam reference, which is argued to teach chosen parameters used for determining what information relative presented. Although Ghannam can present information as to identified parameters, those parameters are clearly not contained within a "user profile". Instead, those parameters are only provided to the data warehouse using an appropriate "application" that the administrator uses to manually access information from the warehouse.

Third, the Examiner argues that motivation exists to combine the references and modify the Ghannam system and method. Applicant disagrees and refers back to the discussion above, which addresses the fact that the applied references are directed to different inventions that are configured to serve very different purposes.

Fourth, the Examiner argues that hindsight reconstruction has not been used in combining the references and rejecting Applicant's claims. Applicant disagrees for the simple reason that because the teachings of the references are so different a person having ordinary skill in the art

would not think to combine them without “gleaning knowledge” from Applicant’s own disclosure. Such reliance on Applicant’s own teachings is clearly improper.

B. Rejection of Claims 13-16 and 19

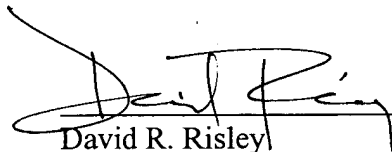
Claims 13-16 and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ghannam*, *Barrett*, and *Schwartz* in view of *Bowman-Amuah* (U.S. Pat. No. 6,571,282). Applicant respectfully traverses this rejection.

As is identified above, Ghannam and Barrett do not teach several aspects of Applicant’s claims. In that Bowman-Amuah does not remedy the deficiencies of the Ghannam and Barrett references, Applicant respectfully submits that claims 13-16 and 19, which depend from claims 1 and 17, are allowable over the Ghannam/Barrett/Bowman-Amuah combination for at least the same reasons that claims 1 and 17 are allowable over Ghannam/Barrett.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,


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8-21-06
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Signature